

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

EDWIN VELEZ,

Plaintiff,

v.

DZURENDA, *et al.*,

Defendants.

Case No. 3:21-CV-00197-ART-CLB

**ORDER GRANTING MOTION FOR
EXTENSION OF TIME AND GRANTING
IN PART AND DENYING IN PART
MOTION TO PROVIDE ADDRESS**

[ECF Nos. 30, 31]

On June 28, 2022, the Court ordered the Nevada Attorney General's Office ("AG") to file a notice advising the Court and Plaintiff Edwin Velez ("Velez") of: (a) the names of the defendants for whom it accepts service; (b) the names of the defendants for whom it does not accept service, and (c) the names of the defendants for whom it is filing the last-known-address information under seal. (ECF No. 20 at 2.) On July 15, 2022, the AG filed a notice of non-acceptance of service for the only remaining defendant, "McCullen" or "McCullin". (ECF No. 21.) On July 26, 2022, the Court ordered that Velez shall have until August 12, 2022, to submit the USM-285 to the U.S. Marshal to effectuate service on McCullen. (ECF No. 23.) A summons was issued by the Clerk of the Court the same day. (ECF No. 24.)

On August 8, 2022, Velez filed a request for extension of time to serve Defendant McCullin (McCullen), which the Court granted to August 26, 2022. (ECF Nos. 25, 26, respectively.) On September 12, 2022, Velez filed a second request for extension of time to serve Defendant McCullin (McCullen), which the Court granted October 12, 2022. (ECF Nos. 27, 28, respectively.) On September 27, 2022, the summons was returned unexecuted, and stated, "Dr. McCullen not currently employed at address provided." (*Id.*)

Now pending before the Court are two motions related to service filed by Velez: (1) a third request for extension of time for service, (ECF No. 30); and (2) a motion for order forcing the Nevada Department of Corrections ("NDOC") to provide the address of

1 the doctor they used for the Plaintiff's surgery. (ECF No. 31).

2 Although the Court warned Velez that no further extensions of time would be
3 granted to effectuate service, given Velez's *pro se* and incarceration status, the Court
4 grants Velez's third request for extension of time to serve Defendant McCullin (McCullen).
5 (ECF No. 30). Velez will have an additional 45 days to effectuate service.

6 In addition, the Court grants in part, and denies in part, Velez's motion for order
7 regarding address. (ECF No. 31). Specifically, the NDOC is ordered to review all of
8 Velez's medical records and the billing records for services provided to Velez by outside
9 medical providers to determine whether an address, different than the one already
10 provided and utilized to attempt service, can be located for Defendant McCullin
11 (McCullen). NDOC shall provide a notice to the Court and Velez whether they are able to
12 locate McCullen's address in these records within 21 days. If the NDOC can locate an
13 address, they shall file the address under seal with the Court. If an address is provided,
14 the Court will issue a completed USM-285 service form to the U.S. Marshal's Office to
15 effectuate service. Velez is again reminded that the failure to complete service of process
16 will result in a dismissal of the Defendant pursuant to Fed. R. Civ. P. 4(m).

17 Consistent with the above, **IT IS ORDERED** that Velez's motion for extension of
18 time, (ECF No. 30), is **GRANTED**. Velez shall have until **November 18, 2022**, to
19 effectuate service of Defendant McCullin (McCullen). If service is not effectuated
20 by November 18, 2022, the Court will recommend the dismissal of this case, without
21 prejudice, for the failure to serve defendant pursuant to FRCP 4(m).

22 **IT IS FURTHER ORDERED** that Velez's motion for order regarding address, (ECF
23 No. 31), is **GRANTED in part, and DENIED in part**. NDOC shall provide notice to the
24 Court and Velez whether an address could be located for McCullin (McCullen), as well as
25 providing the address under seal with the Court, on or before **October 25, 2022**.

26 **DATED:** October 4, 2022

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28 **UNITED STATES MAGISTRATE JUDGE**